AMENDMENT
U.S. Appln. No. 09/649,268

REMARKS

Claims 1-20 are pending in the application and stand rejected. Reconsideration and allowance of all pending claims are respectfully requested in view of the following remarks.

CLAIM REJECTIONS.

35 U.S.C. § 112 (first paragraph)

Claim 8 is rejected under 35 U.S.C. §112, first paragraph, as being non-enabling. Applicant respectfully traverses this rejection for the following reasons.

The Office Action alleges "it is made clear that the data is stored for future use, but not how the data is to be used without the first processor." (3/16/04 Office Action; pg. 3). Applicant respectfully submits the examiner merely misunderstands the claim. There is no limitation recited in claim 8 that the stored data for future use "is to be used without the first processor." Rather, the data for future use is stored with the second processor while the first processor is deactivated. The skilled artisan would readily understand the claimed meaning when read in light of the specification.

Notwithstanding, Applicant amends claim 8 to clarify this point for the Examiner. However, Applicant respectfully submits the amendment to claim 8 is not required for purposes of patentability and does not narrow the literal scope of the claims. Reconsideration and withdrawal of this rejection is respectfully requested in view of the foregoing.

35 U.S.C. § 112 (second paragraph)

Claims 1 and 3 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Applicant respectfully traverses this rejection for the following reasons.

- 5 -

AMENDMENT
U.S. Appln. No. 09/649,268

The Office Action alleges that the separate elements of a processor and a modem processor create confusion "as the name of the first element is included in the name of the second element."

Respectfully, the Examiner has not met the *prima facie* burden for establishing indefiniteness under 35 U.S.C. § 112 second paragraph. Only if the scope of the invention sought to be patented <u>cannot</u> be determined from the language of the claims with a reasonable degree of certainty, is a rejection for want of definiteness appropriate. *In re Wiggins*, 488 F.2d 538 (CCPA 1973). Definiteness of claim language must be analyzed, not in a vacuum, but in light of (i) <u>the content of the application disclosure</u>; (ii) the teachings of the prior art; and the interpretation that would be given by the skilled artisan. (MPEP 2173.02).

In the instant case, clearly there are two different processors recited in claim 3 (i.e., a processor and a modem processor). It is respectfully submitted that from a simple glance at Applicant's figure 1, the skilled artisan would readily understand the meaning of claim 3 and the Office Action has not indicate by reason or example why the skilled artisan would not. In fact, the cited prior art reference Isikoff describes a host computer processor merely as a "processor" (Fig. 4).

Applicant refrains from further clarifying these terms to avoid detrimental effects on Applicant's potential rights under the doctrine of equivalents. In view of the foregoing, the Examiner is requested to reconsider and withdraw this rejection.

35 U.S.C. § 102(b)

Claims 8-9, 13-14 and 17 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. 5,748,084 to Isikoff. Applicant respectfully traverses this rejection in view of the foregoing amendments and the remarks that follow.

- 6 -

AMENDMENT
U.S. Appln. No. 09/649,268

The Examiner continues to assert that Isikoff discloses each of the limitations in Applicant's claims 8-9, 13-14 and 17. Applicant respectfully disagrees for all the reasons previously of record.

Isikoff discloses a security system for locating, communicating with, and managing laptop computers and other portable electronic devices that include a microprocessor and memory. (Col. 1, ll. 3-7). Referring to Isikoff Fig. 4, a host computer 100 may include a beacon 101 and a processor (undesignated). An example implementation of beacon 101 is shown in Fig. 3 which includes a data modem 20 and its own microprocessor 30. Beacon 101 is installed in a host computer 100 such that the data on host computer 100 may be protected from unauthorized access. (Col. 2, ll. 51-67).

"If the computer [100] is stolen the beacon [101] is advantageously activated to secure its data. This is done in one or more of several ways; it operates to recover or destroy important data, or to disable the computer." (Col. 3, ll. 46-50; emphasis added). Isikoff discloses that the beacon [101] is built-in to computer 100 and has access to various system resources such as hard drive 102 and battery 104. (Col. 4, ll. 14-16). The battery power for the laptop may be routed through the beacon, which may control a switch to cut power to the computer 100 or various subsections thereof. (Col. 4, ll. 16-19).

Isikoff does NOT however, disclose deactivating a main processor to reduce power consumption of the portable device and utilizing a modem processor for temporary storage of data for future use as contemplated by the various embodiments of Applicant's invention. These features are emphasized by the foregoing amendments to the independent claims.

Accordingly, Applicant respectfully submits that Isikoff does not teach or suggest all the limitations recited in claim 8 or the corresponding dependent claims and thus Isikoff cannot anticipate Applicant's claims. In view of this fact, reconsideration and withdrawal of the §102(b) rejection is respectfully requested.
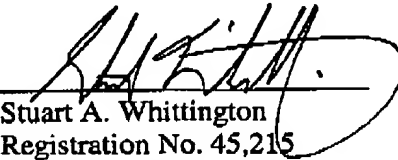
- 7 -

AMENDMENT
U.S. Appln. No. 09/649,268

35 U.S.C. § 103(a)

Claims 1-7, 10-12 and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Isikoff. Applicant respectfully traverses this rejection for the reasons discussed above; namely, since Isikoff fails to teach or suggest at least the power conservation limitations of claims 1-7, 10-12 and 16, Isikoff cannot render these claims obvious. (MPEP 2143). Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

CONCLUSION.

In view of the above, reconsideration and allowance of this application is now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below. Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee or deficiency thereof, except for the Issue Fee, is to be charged to **Deposit Account # 50-0221.**

Respectfully submitted,

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- 8 -